

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA

IN THE MATTER OF:)	CASE NO. INS-2010-29
)	
JANEL LARSON,)	CONSENT AGREEMENT AND ORDER
in her capacity as a licensed insurance)	
producer, License # 677495,)	
)	
Respondent.)	

Consent Agreement dated this 6th day of ~~April~~^{May}, 2010, between the Montana Insurance Department ("Department"), acting pursuant to the authority of the Insurance Code, Mont. Code Ann. § 33-1-101 *et. seq.*, and § 2-4-603, and Respondent JANEL LARSON (Larson).

RECITALS

WHEREAS, the Department issued a Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing (Action) on or about April 8, 2010, alleging violations of the Montana Insurance Code (Action attached hereto as Exhibit A).

WHEREAS, the Department and Larson agree that the parties' best interests would be served by entering into the following specific agreement and undertakings set forth below.

NOW THEREFORE, in consideration of the mutual undertakings established herein, the Department and Larson, as the parties hereto, enter into the following:

AGREEMENT

A. Without admitting the allegations and conclusions contained within the four corners of the Action, Larson hereby stipulates and consents to the following terms:

1. Larson shall pay a fine of \$6,570.56 to the State of Montana, due and payable within one year of signing this agreement. Said fine shall be reduced by all amounts paid in restitution as described below.
2. Larson shall pay restitution to State Farm Insurance Company in the amount of \$5,570.56. Said restitution shall be paid in full within one year of signing this agreement.
3. Larson's insurance producer's license shall be suspended for a period of two years, beginning on April 8, 2010, and ending on April 8, 2012. Larson shall continue to complete the requisite continuing education credits for insurance producers during the period of the suspension.
4. Larson shall comply with the Montana Insurance Code and any other applicable laws and regulations enforceable by the Department as to matters or practices specified in the Action.

B. The parties agree and stipulate as follows:

1. In the event Larson violates the terms of this consent agreement or violates the above specified provisions of the Montana Insurance Code during the one year period commencing with the date this consent agreement is executed by all parties, the Department shall seek a fine from Larson in the amount of \$5,000 in addition to enforcing the terms of this agreement.
2. The Department will not refer the allegations or evidence underlying the allegations for criminal prosecution to any other agency.
3. Larson fully and forever releases and discharges the Commissioner of Securities and Insurance of the Office of the State Auditor (CSI) and all CSI employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise

from the allegations underlying this Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the Action.

4. This Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

DATED this 6th day of ~~April~~^{May}, 2010.

Roberta Cross Guns
Roberta Cross Guns
Attorney for Insurance Department

DATED this 30 day of April, 2010.

Janel Larson
Janel Larson

SUBSCRIBED AND SWORN to before me this 30th day of April, 2010.

Jaimie Goff
JAIMIE GOFF
Printed Name
Notary Public for the State of Montana
Residing at Miles City, MT
My commission expires 09.01.2010

ORDER

On the basis of the foregoing Consent Agreement and Respondent's consent to the entry of this order, for the purpose of settling this matter prior to a hearing, and without admitting or denying any of the Findings of Fact or Conclusions of Law, the Commissioner orders all parties to comply with the provisions of the foregoing Consent Agreement including, but not limited to, the provisions in which Respondent agrees to pay \$6,570.56 in fines and \$5,570.56 in restitution. The Commissioner further orders Respondent to comply with the Insurance Act of Montana and the rules promulgated pursuant to said Act.

Dated this 6th day of ^{May}~~April~~, 2010.

MONICA J. LINDEEN, STATE AUDITOR

By: Robert W Moon
Title: DEPUTY INSURANCE COMMISSIONER

cc. Janel Larson
Roberta Cross Guns

Exhibit A

APR 08 2010

ROBERTA CROSS GUNS
Office of the Commissioner of Securities and Insurance
Montana State Auditor
840 Helena Avenue
Helena, MT 59601
406-444-2040
rcrossguns@mt.gov

Attorney for Securities and Insurance Departments

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA

IN THE MATTER OF:)	CASE NO. INS-2010-29
)	
JANEL LARSON)	NOTICE OF PROPOSED AGENCY
in her capacity as a licensed insurance)	DISCIPLINARY ACTION
producer, License # 677495,)	AND OPPORTUNITY FOR HEARING
)	
Respondent.)	

Staff of the Insurance Department (Department) of the office of the State Auditor as Commissioner of Securities and Insurance of the state of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Mont. Code Ann. § 33-1-101, et seq., is proposing to the Commissioner that she take specific action against JANEL LARSON (Larson), a licensed insurance producer, for violations of the Montana Insurance Code (Insurance Code). The Commissioner has authority to take such action under the provisions of Mont. Code Ann. §§ 33-1-102, 33-1-301, 33-1-311, 33-1-317, 33-1-318, 33-1-1202, 33-17-1001.

In particular, the Department recommends specific action against Larson, including imposition of appropriate fines, order to pay restitution and suspension or revocation of Larson's producer's license.

Service of process is pursuant to Mont. Code Ann. § 33-1-314.

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such specific action. Furthermore, there is reason to believe that the following facts will be proven true and, therefore, justify and support immediate issuance of an order requiring Respondent to cease and desist its activities in violation of the Insurance Code.

ALLEGATIONS OF FACT

1. Larson is a licensed insurance producer, license number 677495, and has been licensed since October 19, 2006.
2. Larson was appointed with State Farm beginning on or about October 31, 2006. Larson's appointment with State Farm terminated on or about October 2, 2007.
3. On or about November 19, 2009, the Department received a complaint from State Farm Insurance Company (State Farm) alleging Larson had submitted multiple fraudulent insurance claims for herself pursuant to Larson's hospital income policy. The relevant time period is from April 1, 2007 through May 31, 2009.
3. Investigator Catrina Higgins (Higgins) investigated this matter. Pursuant to standard investigation procedures, Higgins obtained a copy of State Farm's claims file relevant to Larson. Higgins verified the claims file information with the hospital. The file indicated Larson had submitted fraudulent claims as follows:
 - a. Larson submitted a claim for services allegedly received on or about April 12, 2007, for \$420 when the actual hospital billing was for \$282, indicating a fraudulent claim of \$138. The claim was subsequently denied because it was for illness, which is not covered by Larson's State Farm policy.

b. Larson submitted a claim for \$750 for services allegedly received on or about April 18, 2007. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

c. Larson submitted a claim for \$750 for services allegedly received on or about May 1, 2007. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

d. Larson submitted a claim for \$1,250 for services allegedly received on or about July 4, 2008. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

e. Larson submitted a claim for \$1,500 for services allegedly received on or about February 8, 2009. State Farm paid the full claim. However, the legitimate hospital billing was for only \$801.20.

f. Larson submitted a claim for \$1,095.80 for services allegedly received on or about February 8, 2009. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

g. Larson submitted a claim for \$1,531.08 for services allegedly received on or about May 15, 2009. State Farm did not pay the claim. Additionally, the legitimate hospital billing was for only \$547.85.

4. The total amount of fraudulent claims made by Larson is \$6,410.68. Of that total, State Farm paid Larson \$5,570.56.

5. Most of the fraudulent claims were submitted with bills from the hospital that contained errors that were inconsistent with bills actually prepared by the hospital, including misspelled

words. During Higgins' investigation she discovered Larson had worked at the hospital from 2001 through 2006.

6. Higgins interviewed Larson on or about January 28, 2010. During the interview, Larson admitted submitting fraudulent claims to State Farm. Larson provided Higgins a written statement to that effect. Larson and Higgins both signed Larson's statement. A copy of Larson's statement is attached hereto as Exhibit A.

7. Larson has made an offer to repay State Farm the money she obtained through her fraudulent actions as indicated in her note to State Farm's Health Claim Examiner, Lora Keeney, a copy of which is attached hereto as Exhibit B.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter by reason of the Respondent's licensure pursuant to Mont. Code Ann. § 33-17-101, et seq.

2. Pursuant to Mont. Code Ann. § 33-1-1202 (1), a person commits the act of insurance fraud when the person presents an insurer a written statement containing false information concerning any fact as part of a claim for payment, for the purpose of obtaining money.

3. Respondent violated Mont. Code Ann. § 33-1-1202 (1) by submitting claims to State Farm that contained false information, including fake dates of services provided by a hospital and fake amounts charged for services provided by a hospital for the purpose of obtaining money from the insurer.

4. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (c), the Commissioner may suspend or revoke an insurance producer's license when that person violates a provision of the Insurance Code.

5. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (f), the Commissioner may suspend or revoke an insurance producer's license when that person, in conduct of the affairs under her license uses fraudulent practices or is untrustworthy or a source of loss and injury to the public.

6. Respondent violated Mont. Code Ann. § 33-17-1001 (1) (c) and (f) by violating the provisions of the Insurance Code found in Mont. Code Ann. § 33-1-1202 (1), showing Respondent uses fraudulent practices, is untrustworthy and is a source of loss and injury to the public.

PUBLIC INTEREST

For any and all of the reasons set forth above, it is in the public interest and will protect Montana insurance consumers to:

1. immediately issue a cease and desist order barring Larson from further violations of the Montana Insurance Code;
2. order Larson to pay an administrative fine in an amount and upon such terms and conditions as supported by the evidence and determined at a hearing of this matter;
3. order Larson to pay restitution in amount and upon such terms and conditions as supported by the evidence and determined at a hearing of this matter;
4. suspend or revoke Larson's insurance producer's license; and
5. take such other actions which may be in the public interest and necessary and appropriate for the protection of Montana insurance consumers.

RELIEF REQUESTED

WHEREFORE, the Department seeks the following relief:

1. pursuant to Mont. Code Ann. § 33-1-318, issuance of a temporary cease and desist order;
2. pursuant to Mont. Code Ann. § 33-1-317, imposition of a fine not to exceed \$5,000 for each violation of the Insurance Code;
3. pursuant to Mont. Code Ann. § 33-1-1211 (3), require restitution be paid to the insurer for the amounts obtained by insurance fraud;
4. pursuant to Mont. Code Ann. § 33-17-1001, suspension or revocation of Larson's insurance producer's license;
5. a finding that all sanctions and remedies detailed and described here are in the public interest and necessary for the protection of Montana insurance consumers; and
6. any further action as deemed just and appropriate for the protection of Montana insurance consumers.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner pursuant to the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-601, et seq., including § 2-4-631. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing.

If you want to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within 15 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Roberta Cross-Guns, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601. Your letter

must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to Mont. Code Ann. § 2-4-603(2), you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license. Should you request a hearing on the matters raised in this Notice, a hearing must be held within 45 days of the request, unless postponed by mutual consent of the parties, pursuant to Mont. Code Ann. § 33-1-701 (2).

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the requirements of *Application of American Smelting and Refining Co.*, 164 Mont. 139, 520 P.2d 103 (1973), and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil* 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

CONTACT WITH SECURITIES COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Roberta Cross Guns, legal counsel for the Insurance Department, at 840 Helena Avenue, Helena, MT, 59601, (406) 444-2040 or, within Montana, (800) 332-6148. If an attorney represents you, please make any contacts with this office through your attorney.

POSSIBILITY OF DEFAULT

Failure to give notice or to advise of your demand for a hearing or informal procedure within 15 days will result in the entry of a default order imposing the disciplinary sanctions

against you and your license without further notice to you, pursuant to Mont. Admin. R. 6.2.101,
and the Attorney General's Model Rule 10, Mont. Admin. R. 1.3.214.

DATED this 8th day of April, 2010.

Roberta Cross Guns
Roberta Cross Guns
Attorney for Insurance Department

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 8th day of
April, 2010, by US mail, certified first-class postage paid, to the following:

Janel Larson
2307 Stower Street
Miles City, MT 59301

[Signature]